

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

WILLIE L. WASHINGTON,

Petitioner

V.

5TH DISTRICT COURT, BOWIE  
COUNTY, TEXAS,

Respondent.

Case No. 5:23cv53-RWS-JBB

## ORDER

Petitioner Willie Washington, proceeding *pro se*, filed the above-captioned petition for the writ of habeas corpus complaining of his prosecution. Docket No. 1. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Petitioner has pending state and federal criminal prosecutions pending. *See* Docket No. 1; Docket No. 3 at 1–3. He complains of the circumstances of his arrest and contends that he cannot be charged with the same crime in state and federal court. *Id.* He asks that his state criminal case be dismissed or removed to federal court. *Id.*

The Magistrate Judge determined that Petitioner failed to exhaust his state remedies with regard to his state court prosecution because he has not presented his claims to the highest court for the State of Texas. Docket No. 3 at 3–5. The Magistrate Judge also stated that Petitioner did not meet the requirements for removal of a state prosecution to federal court under 28 U.S.C. § 1443. *Id.* at 5–6. The Magistrate Judge therefore recommended that the petition for habeas corpus relief be dismissed without prejudice. *Id.* at 7.

A copy of the Report was sent to Petitioner at his last known address but was returned as undeliverable. Docket No. 4. To date, Petitioner has not advised the Court of his current mailing address. Eastern District of Texas Local Rule CV-11(d) requires that *pro se* litigants must provide the Court with a physical address and is responsible for keeping the Clerk of Court advised in writing of his current physical address.

Because no objections have been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at \*1 (E.D. Tex. July 31, 2021).


The Court has reviewed the pleadings in this case and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined that the Report and Recommendation of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is

**ORDERED** that the Report and Recommendation of the Magistrate Judge (Docket No. 3) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-captioned civil action is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust state remedies. A certificate of appealability is **DENIED sua sponte**, with this denial referring only to an appeal of this case and having no effect upon the Petitioner's right to defend himself in his state or federal criminal prosecution, to appeal any such conviction which may result from these prosecutions by direct appeal or collateral review, or to again seek relief in federal court in the event that he does not obtain the relief which he seeks in state court. It is further

**ORDERED** that any pending motions in the above-captioned case are **DENIED**. A final judgment will be entered in this case in accordance with this Order.

**So ORDERED and SIGNED this 21st day of November, 2023.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE